



March 13, 2000

Ms. Bonnie Lee Goldstein
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.
3000 Bank One Center
1717 Main Street
Dallas, Texas 75201-4335

OR2000-1001

Dear Ms. Goldstein:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 132899.

The City of McKinney (the "city"), which you represent, received a request for information relating to the operations of the City of McKinney Airport (the "airport") from January 1, 1972 to December 16, 1999, the date of the request. You inform this office that documents responsive to the present request previously were at issue in Open Records Letter Nos. 98-2589 (1998), 99-0781 (1999), and 99-3458 (1999). The initial ruling, Open Records Letter No. 98-2589, authorized the city to withhold information relating to expansion of the airport under section 552.103 of the Government Code.¹ Open Records Letter No. 99-0781 held that, as the circumstances had not changed in the interim, the city was authorized to continue to withhold any requested information that it had not released in accordance with the previous ruling. Open Records Letter No. 99-3458 held that the previous rulings authorized the city to continue to withhold information not previously released or

¹Section 552.103, the "litigation exception," excepts from required public disclosure information relating to civil or criminal litigation involving a governmental body that is pending or reasonably anticipated on the date that the governmental body receives the request for information. Gov't Code § 552.103(a), (c).

subsequently made public under section 552.022(a) of the Government Code.² You explain that the litigation originally addressed in Open Records Letter No. 98-2589 remains pending. You also state that the city will make available to the present requestor the budget books and documents pertaining to grant applications and agreements released in connection with Open Records Letter No. 99-3458 and any documents determined to be public in that ruling. Based on your representations, we conclude that the city may continue to withhold the balance of the requested information in accordance with Open Records Letter No. 98-2589.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

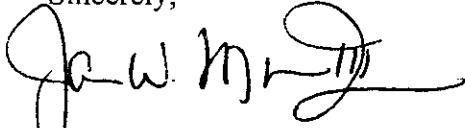
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

²Subsequent to the issuance of Open Records Letter Nos. 98-2589 and 99-0781, the Seventy-sixth Legislature amended section 552.022 to make eighteen specified categories of information, including information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body, subject to required public disclosure unless other law expressly makes that information confidential. *See* Gov't Code § 552.022(a)(3); Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 5, 1999 Tex. Gen. Laws 4500, 4501-02 (codified at Gov't Code § 552.022).

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "W" and a stylized "M" and "III" at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ch

Ref: ID# 132899

cc: Mr. Scott Albert
Town of Fairview
500 S. Highway 5
Fairview, Texas 75069